

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) ) Scott E. HRASTAR  
Application No. ) 10/700,914  
Filing Date ) November 4, 2003  
Title ) SYSTEMS AND METHODS FOR DETERMINING  
WIRELESS NETWORK TOPOLOGY  
Examiner ) Backhean Tiv  
Art Unit ) 2151  
Confirmation No. ) 7780

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450 USA

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**DECLARATION UNDER 37 CFR § 1.131**

Dear Madam or Sir,

I, Amit Sinha, hereby declare that:

1. I am Vice President & Chief Technology Officer of AirDefense, Inc., the assignee of Application No. 10/700,914, filed on 11/04/2003. Application No. 10/700,914 claims priority to U.S. Provisional Application No. 60/464,464 filed on 04/21/2003.
2. The sole inventor, Scott E. Hrastar, assigned the present application to AirDefense, Inc. on 10/14/2003, and the assignment was recorded with the USPTO at Reel/Frame 014674/0613 on 11/04/2003.
3. Scott E. Hrastar is no longer employed with AirDefense, Inc., and I, Amit Sinha, make this declaration in accordance with MPEP §715.04 since it is not possible to

produce the affidavit or declaration of the inventor. *Ex parte Foster*, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903).

4. Scott E. Hrastar has previously submitted on 06/03/2008 a Declaration under 37 CFR §1.131 to show conception prior to the February 14, 2003 priority date of Williams *et al.* (U.S. Pat. Publication No. 2005/0015623), and the February 13, 2004 filing date of Williams *et al.*
5. In the pending Non-Final Office Action mailed 08/20/2008, the Examiner rejects the previously presented Declaration under 37 CFR §1.131 to show reduction of practice prior to the February 14, 2003 priority date of Williams *et al.* (U.S. Pat. Publication No. 2005/0015623), and the February 13, 2004 filing date of Williams *et al.* because the evidence allegedly did not show that the invention had been sufficiently tested to demonstrate that it worked for its intended purpose (Non-Final OA, page 25).
6. The previously presented evidence for reduction to practice (Exhibit C of the 06/03/2008 Hrastar declaration) was a test log for AirDefense Release 3.0. AirDefense Release 3.0 included the present invention. Subsequent to the date of the test log, and prior to the priority date and filing date of Williams *et al.*, AirDefense Release 3.0 was generally available (GA).
7. The attached Exhibits D and E are true copies of original documents prepared in the regular course of business of AirDefense, Inc., the assignee of the above-identified application, and that the original is in the possession of AirDefense, Inc.
8. Exhibit D includes two invoices and packing slips for shipments of AirDefense Release 3.0 to two customers of AirDefense. The shipments associated with Exhibit D were in this country (U.S.A.) prior to the February 14, 2003 priority date of Williams *et al.* and the February 13, 2004 filing date of Williams *et al.* The corresponding dates of Exhibit D show a reduction to practice of the present invention prior to the priority date and filing date of Williams *et al.*

9. Exhibit E is a copy of release notes associated with AirDefense Release 3.0. Exhibit E was made in this country (U.S.A.) prior to the February 14, 2003 priority date of Williams *et al.* and the February 13, 2004 filing date of Williams *et al.* The corresponding dates of Exhibit E show a conception and reduction to practice of the present invention prior to the priority date and filing date of Williams *et al.*
10. Exhibit E details functionality of the present invention. For example, Exhibit E describes a hierarchal approach to managing devices. There are static icons and stateful icons. Static icons represent the System, and the Locations and Groups of Sensors. Stateful icons represent the presence, associations, and states of individual Sensors, Access Points, and Stations in your wireless local area network (WLAN).

I hereby declare that all statements made in this instrument of my knowledge are true and all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Date: September 9, 2008

/Amit Sinha/

Amit Sinha  
VP and CTO, AirDefense, Inc.